

HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
Writ Petition No.4936 of 2007

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Between:

Mohd. Mahbub Ali
... Petitioner

And

The Government off Andhra Pradesh,
Rep. by its Principal Secretary,
Minorities Welfare Department,
Hyderabad and others.
... Respondents

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:: ORDER ::

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Counsel for the Petitioner: Shri M.A. Mujeeb

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April 03, 2007

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Per G.S. Singhvi, CJ

In this petition filed in the name of public interest litigation, the

petitioner has prayed for issue of a mandamus to respondent Nos.1 to 3 not to take any action which may enable respondent No.4 – Smt.Azeemunnisa Begum to sell the property known as “Moin Manzil” bearing M.C.H.No.5-9-1116, situated at Church Road, Abids, Hyderabad.

The aforementioned prayer of the petitioner is founded on the following assertions:

- i) that a wakf was created by Mohd. Moinuddin Hussain @ Nawab Moin Yar Zung in respect of ‘Moin Manzil’ vide Muntakhab No.1679 of 1354 Fasli and the same was registered as Aukaf No.2879 of 1354 Falsi;
- ii) that after the death of Nawab Moin Yar Zung, his daughter (respondent No.4) became Mutawalli/Manager of the property, and
- iii) that respondent No.4 has not only failed to fulfill the object of the wakf, but she is trying to sell the property to builders.

According to the petitioner, respondent No.4 has colluded with the Special Officer and the Chief Executive Officer, Andhra Pradesh Wakf Board for getting the property released as non-wakf and is intending to sell the same. In paragraphs 7, 8 and 9 of his affidavit, the petitioner has made the following averments:

“7. I submit that respondent No.4 is misappropriating the wakf property and she has been negotiating with builders to sell the property. She has colluded with respondents 2 and 3 for getting the property released as non-wakf property. The respondents 2 and 3 are the part of the conspiracy to get the wakf property released and they are about to issue “No objection certificate” enabling the respondent No.4 to sell the property. If the respondents succeed in selling the wakf property the community shall be deprived of a valuable asset.

8. I submit that I have made several representations to respondents 1 to 3, but the persons on high posts in the Minorities Welfare Department and wakf department are involved in the entire matter and they are scuttling my voice and when the officers have already made up of their minds and when they are working with common intention, there is no

one to listen to my pleas initially. They have even refused to acknowledge my representations. As a result of which, I have also got issued a representation through my counsel on 8-2-2007. In spite of that, respondents 1 to 3 have totally failed to take any action. They have also not given any reply to the said representation.

9. I submit that I came to know day before yesterday that a meeting has been held in the "Moin Manzil" wherein the officers of Minorities Welfare Department, Chief Executive Officer of A.P.Wakf Board and other officers of the A.P.State Wakf Board were present and they have attended a dinner in Moin Manzil where it has been given a green signal that within 2 or 3 days, the property shall be cleared in order to make the way for selling the property to the third parties. The property worth is in crores of rupees and it is situated in a posh locality of Hyderabad. Since the respondents are bent upon to sell the property, which is a wakf property, I submit that I have no remedy except to seek indulgence of this Hon'ble Court to exercise its extra-ordinary original jurisdiction under Art.226 of the Constitution of India."

We have heard Shri M.A. Mujeeb, learned counsel for the petitioner. In our opinion, the writ petition is liable to be dismissed summarily because the petitioner has not produced any tangible evidence to prima facie prove the assertions contained in paragraphs 7 to 9 of his affidavit. The allegation contained in the affidavit of the petitioner that respondent No.4 is intending to sell the wakf property to the builders has not been substantiated by producing any contemporaneous evidence. It is, thus, clear that the petitioner has failed to discharge the burden which lay upon him to prima facie prove that respondent No.4 is intending to sell the property to the builders. Therefore, relief in terms of the prayer made by him cannot be granted.

With the above observations, the writ petition is dismissed. However, liberty is given to the petitioner to seek intervention of the Court in future by establishing his locus and by showing that the transfer of the property, if any made by respondent No.4 is contrary to

law and public interest.

G.S. SINGHVI, CJ

April 03, 20007

C.V. NAGARJUNA REDDY, J

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